

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 509 – HB 570

March 30, 2011

SUMMARY OF AMENDMENT (005050): Removes the requirement under the original bill that the court must conduct a hearing separate from the hearing on the petition prior to assessing court costs, filing fees, litigation taxes, and attorney fees against the petitioner. Deletes the condition that the petitioner filed the petition frivolously and replaces it with the condition that the petitioner knew that the allegation of domestic abuse, stalking, or sexual assault was false at the time the petition was filed.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue - \$2,300/General Fund
\$4,800/Dedicated Funds

Increase Local Revenue - \$46,300

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- The court clerks will be able to assess court costs, filing fees, litigation taxes, and attorney fees against the petitioner for orders of protection filed by non-victims that are dismissed or withdrawn.
- According to the Tennessee Court Clerks Association, under current law courts are not assessing costs against petitioners for orders of protections that are dismissed or withdrawn.
- Based on the data provided by the Tennessee Court Clerks Association, there are approximately 25,310 orders of protection dismissed or withdrawn each year. It is estimated that 50 percent, or 12,655, of these dismissed or withdrawn orders will be by petitioners who are found not to be a victim.
- Of the 12,655 dismissed or withdrawn orders, it is estimated that five percent, or 633 will be found to have been filed by petitioners who knew the allegation of domestic abuse, stalking, or sexual assault was false.

- Total costs associated with orders of protection are estimated to be \$179.50 per order filed. Of this amount, \$23.75 is the state privilege tax on litigation, leaving \$155.75 in county costs and fees.
- According to the Fiscal Review Staff Report on Uncollected Criminal Case Fines, Costs, and Litigation Taxes (September, 2008), 47 percent of costs are recoverable. The remaining 53 percent is assessed against petitioners who are indigent or otherwise unable to pay.
- Local revenue will increase by approximately \$46,337 ($633 \times \$155.75 \times 47\%$).
- State revenue is estimated to increase approximately \$7,066 ($633 \times \$23.75 \times 47\%$).
- The state privilege tax revenue (\$7,066) is earmarked to the general fund and other dedicated funds as follows:
 - \$2,272 (32.1502%) to the General Fund
 - \$2 (.032%) to the Tennessee Corrections Institute
 - \$235 (75% of 4.443%) to the Department of Education
 - \$78 (25% of 4.443%) to the Department of Safety
 - \$46 (.6553%) to the State Court Clerks Conference
 - \$59 (.8406%) to the Victims of Crime Assistance Fund
 - \$1,696 (24.002%) to the Criminal Injuries Compensation Fund
 - \$97 (1.3755%) to the Victims of Drunk Drivers Compensation
 - \$266 (3.7653%) to the Criminal Indigent Defense Fund
 - \$39 (.5529%) to the Administrative Office of the Courts
 - \$1,363 (19.2902%) to the Public Defender Program
 - \$528 (7.4701%) to the Civil Legal Representation of Indigents
 - \$163 (2.3056%) to the General Fund for Grants to Local Government
 - \$24 (.3426%) to the Sex Offender Treatment Fund
 - \$196 (2.7747%) for Driver Education in Public Schools.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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